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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/092,703

03/05/2002

Jin Yong Kim

2080-3-69

2493

35884 7590 07/07/2006

LEE, HONG, DEGERMAN, KANG & SCHMADEKA  
801 S. FIGUEROA STREET  
12TH FLOOR  
LOS ANGELES, CA 90017

EXAMINER

AGUSTIN, PETER VINCENT

ART UNIT

PAPER NUMBER

2627

DATE MAILED: 07/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/092,703

Applicant(s)

KIM, JIN YONG

Examiner

P. Agustin

Art Unit

2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5,7,8 and 10-23 is/are pending in the application.
- 4a) Of the above claim(s) 11-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,7,8,10 and 23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-5,7,8 and 10-23 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. Claims 1-5, 7, 8 & 10-23 are now pending, with claims 11-22 withdrawn from further consideration due to a previous restriction requirement.

#### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 27, 2006 has been entered.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 4, 5 & 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Kikuta (JP 05-040663) (please refer to the machine translation).

In regard to claim 1, Kikuta discloses a read-only recording medium (Drawing 1, element 1) containing recorded data, wherein the recorded data includes a first data type (abstract, constitution: "valid data") and a second data type (abstract, constitution: "invalid"), the first data type including user data, and the second data type being placed at a predetermined interval between first data types and not containing the user data, wherein a total size of the first data type and the second data type is equal to a size of a predetermined data unit to be used in a

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writable recording medium, which writable recording medium is a counterpart of the read-only recording medium, the predetermined data unit including user data and invalid data (abstract, constitution: "Both invalid and valid data are written into each area of a CD-ROM 1 and the areas of a magnetic disk 2 corresponding to those areas of the CD-ROM 1 respectively").

In regard to claim 2, Kikuta discloses that the read-only recording medium comprises a lead-in area (inherent in the "CD-ROM" of Kikuta), a main data area (interpreted as the area in the disk 1 where the "valid" and "invalid" data area is recorded) and a lead-out area (inherent in the "CD-ROM" of Kikuta), wherein the first and second data types are located at the main data area of the read-only recording medium.

In regard to claim 4, Kikuta discloses that the second data type includes an invalid data (abstract, constitution, line 1), wherein a size of the second data type is equal to that of the invalid data of the predetermined data unit to be used in the writable recording medium (abstract, constitution, lines 1-4).

In regard to claim 5, Kikuta discloses that the second data type is preceded or followed by the first data type areas (understood from the abstract).

In regard to claim 7, Kikuta discloses that a size of the second data type is equal to that of the invalid data to be allocated intermittently in the user data of a writable recording medium (abstract, constitution, lines 1-4).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kikuta in view of Zook (US 5,920,578).

For a description of Kikuta, see the rejection above. However, in regard to claim 3, Kikuta does not disclose that the first data type includes at least one error correcting code (ECC) unit, which includes an error correcting code.

Zook discloses a CD-ROM having a first data type including at least one error correcting code unit, which includes an error correcting code (column 1, lines 12-27). It would have been obvious to one of ordinary skill in the art at the time of the invention by the Applicant to have applied the teachings of Zook to the medium of Kikuta, the motivation being to obtain accurate and error-free reproduction of data (column 1, lines 17-20 and 25-27).

7. Claims 8 & 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kikuta in view of Kamoto et al. (US 5,708,649).

For a description of Kikuta, see the rejection above. However, Kikuta does not, but Kamoto et al. disclose: in regard to claim 8, that a plurality of pre-pits with a predetermined pattern are formed in the second data type repeatedly (column 8, lines 47-48: "pre-pits formed on a reproduced CD-ROM"); and in regard to claim 10, that signals produced from said plurality of pre-pits are used for servo-control (column 8, lines 46-47: "tracking error signal is generated by the reproduction of pre-pits").

It would have been obvious to one of ordinary skill in the art at the time of the invention by the Applicant to have applied the teachings of Kamoto et al. to the medium of Kikuta, the

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motivation being to prevent erroneous tracking (a well-known purpose of servo control), thereby maintaining accurate reproduction of data.

8. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kikuta in view of the admitted prior art.

For a description of Kikuta, see the rejection above. However, in regard to claim 23, Kikuta does not explicitly disclose that the second data type has a length of 2K bytes or less.

The admitted prior art discloses using a second data type (page 3, last paragraph thru page 4, first paragraph: "linking loss area") having a length of 2K bytes or less. It would have been obvious to one of ordinary skill in the art at the time of the invention by the Applicant to have applied the teachings of the admitted prior art to the medium of Kikuta, the motivation being to provide sufficient buffering, thereby preventing erroneous reproduction of data (page 4, second paragraph).

### ***Response to Arguments***

9. Applicant's arguments filed April 27, 2006 have been fully considered but they are not persuasive.

In response to Applicant's arguments on page 7, paragraph 5 that "in contrast to the claimed invention, Kikuta discloses only the second data type being present on the CD-ROM", the Applicant is directed to lines 7-10 of the abstract, which state that "both invalid and valid data are written into each area of a CD-ROM 1 and the areas of a magnetic disk 2 corresponding to those areas of the CD-ROM 1 respectively", which means that the CD-ROM contains invalid and valid data, and that the magnetic disk also contains invalid and valid data. Therefore, both the claimed first and second data types are present on the CD-ROM.

*Conclusion*

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to P. Agustin whose telephone number is 571-272-7567. The examiner can normally be reached on Monday-Friday 9:30-5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, A. L. Wellington can be reached on 571-272-4483. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

P. Agustin  
Art Unit 2627



Brian E. Miller  
Primary Examiner  
Art Unit 2627